IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10515 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

KOLI RAMESHBHAI MOHANBHAI

Versus

DISTRICT MAGISTRATE

Appearance:

MR PRAVIN GONDALIYA for Petitioner

MR DN PATEL, ASST GOVT PLEADER for Respondent No. 3

CORAM : MR.JUSTICE B.C.PATEL

Date of decision: 10/03/2000

ORAL JUDGEMENT

The detenu has filed this petition as he has been detained by the respondent No.1 District Magistrate by an order dated 16.8.1999 in exercise of the powers conferred upon him under the provisions contained in the Gujarat Prevention of Anti Social Activities Act, 1985

(hereinafter referred to as the Act).

2. From the grounds of detention dated 16.8.1999 served on the detenu, it appears that the detenu was produced before the Court atleast on six occasions and the cases are pending against him. On 10.4.1998, 17.8.1998, 27.8.1998, 22.12.1998, 21.5.1999, and 28.6.1999, the detenu was found in possession of Wash in huge quantity for manufacturing illicit liquor. On 28.6.1999 and 17.8.1999, over and above the Wash, he was found in possession of illicit liquor. The detaining authority has considered the fact that the detenu is not doing any lawful business. The detenu is in the habit of threatening people and collecting amount from them. The detenu also misbehaves with women. Apart from the activities of dealing in prohibited liquor, it is also pointed out that the detenu is a headstrong person and was asking others to transport his liquor and on refusal, persons were beaten. On account of terror, people were feeling helpless and they were not willing to come forward to make complaint. However, three persons, on assurance being given that their names will not be disclosed, have disclosed information about the activities of the detenu. From the same, it clearly transpires that with the use of dangerous weapons, the detenu was robbing the people. The detaining authority was satisfied that the detenu was required to be detained. Despite the fact that under section 93 of the Prohibition Act on 7.12.1998 action was initiated, the detenu continued his illegal activities.

3. Without examining the legality of the grounds of detention, this petition is required to be disposed of on the short ground that the detaining authority has not submitted report to the State Government as contemplated under section 3 (3) of the Act. It was the duty of the detaining authority to make a report to the State Government about the fact of passing the detention order, together with the grounds on which the order has been made. Neither the detaining authority nor the State Government has filed any affidavit in this matter. The detenu has taken a specific ground in this behalf. Ground 'H' of the petition specifically refers to this aspect. There is no reply to this specific averments, either by the detaining authority or by the State Government. Thus, the specific contention raised by the detenu has remained uncontroverted. Therefore, the continued detention of the detenu is required to be held as bad and illegal.

4. In view of the aforesaid, this petition is

allowed. The continued detention of the detenu is held as bad and illegal. The detenu is ordered to be released forthwith if not required in any other case. Rule made absolute accordingly. No order as to costs.

csm./ (B.C. PATEL, J.)